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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION
10

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 REBECCA PINA,
15 Defendant.

Case No. CR 20-159 EMC

**UNOPPOSED MOTION AND
(PROPOSED) ORDER TO
WITHDRAW GUILTY PLEA AND
FACTUAL ADMISSIONS
TO BE DECIDED ON THE PAPERS**

1 Rebecca Pina, by and through her undersigned counsel, moves to withdraw her
2 guilty plea and her factual admissions in the above captioned case pursuant to Fed. R.
3 Crim. P. 11(d)(2)(B). On June 17, 2020, Ms. Pina entered into a Post-Plea Diversion
4 Agreement with the United States and admitted to the facts set forth in that agreement
5 before this Court. *See* ECF Docket 36. On December 11, 2020, this court entered an order
6 granting the Parties Stipulation to amend the previously filed Post-Plea Diversion
7 Agreement, ECF Docket 36, and agreed as follows:

8 It is hereby stipulated and agreed between counsel for the United States and
9 counsel for the defendant that the following amendments be made to the
post-plea diversion agreement, ECF No. 36:

10 Paragraph 10(g) be amended such that the phrase “to include 50 hours of
11 community service to be performed in the United States or in Mexico
depending on my residence within two years of the entry of a guilty plea”
12 shall be modified to read “to include 50 hours of community service to be
performed in the United States or in Mexico depending on my residence
13 within six months of entry of a guilty plea.”

14 Paragraphs 15 and 16 be amended such that the phrases “50 hours of
community service within two years of [the] entry of [a/my] guilty plea”
15 shall be modified to read “50 hours of community service within six months
of entry of a guilty plea.”

16 The defendant has presented proof to the government that she has performed
17 the required community service. Accordingly, in light of the stipulated
amendments described above, as of December 17, 2020, the government
18 would not oppose a motion by the defendant to withdraw the guilty plea at
that time, and the government would move to dismiss the charges against the
19 defendant in the captioned Information.

20 *See*, ECF Docket 39.

21 Federal Rule of Criminal Procedure 11(d)(2)(B) provides in pertinent part that:

22 A defendant may withdraw a plea of guilty ...:

23 (2) after the court accepts the plea, but before it imposes sentence
24 if:

25 (B) the defendant can show a fair and just reason for requesting
the withdrawal.

26 Ms. Pina recently completed all of the terms and conditions of her Post-Plea
27 Diversion Agreement, including her required 50 hours of community service and paid
28 restitution of \$500. She has provided the government with all of the information that it

1 requested. Pursuant to Stipulation and this Court's order dated December 11, 2020, the
2 government has agreed that as of December 17, 2020, it would not oppose a motion to
3 withdraw the guilty plea. It also agreed to dismiss the charges against the defendant. *See*
4 Docket 39, at Page 2:9-12.

5 Therefore, consistent with the Post-Plea Diversion Agreement, as amended by
6 Docket No. 39, Ms. Pina submits a fair and just reason for requesting the withdrawal of the
7 plea agreement exists pursuant to Rule 11(d)(2)(B) and now respectfully moves to
8 withdraw her guilty plea and the admissions she made during the plea process.
9 Undersigned counsel represents that the assigned Assistant United States Attorney,
10 Christoffer Lee, does not object to the motion to withdraw the plea.

11 Further, counsel understands the United States will submit a notice of dismissal
12 without prejudice, which is contingent on Ms. Pina's cooperation, including truthful
13 testimony at trial, if called upon to do so at a later date. Ms. Pina consents to this dismissal
14 without prejudice and recognizes the dismissal is predicated on her cooperation (including
15 truthful testimony at trial), if requested by the United States.

16
17 DATED: January 26, 2021

Respectfully submitted,

18 ROSEN BIEN GALVAN & GRUNFELD LLP

19 By: /s/ Jeffrey L. Bornstein

20 Jeffrey L. Bornstein

21 Attorneys for Rebecca Pina
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[PROPOSED] ORDER

For good cause shown, and with the stipulation of the United States as set forth in the Stipulation and Order approved by this Court on December 11, 2020 (ECF Docket 39), IT IS HEREBY ORDERED that the Motion by Rebecca Pina to withdraw her guilty plea and admissions she made during the plea process is granted.

IT IS SO ORDERED.

DATED:

Honorable Edward M. Chen
United States District Judge